

## REMARKS

Claims 1-34 are pending in the application.

Claims 5-17, 22-25, 33 and 34 are withdrawn.

Claims 1-4, 18-21 and 26-32 are rejected.

Claims 1, 7-17, 21 and 33 are amended.

Claims 2-6 are cancelled.

### **Amended Claims**

Claim 1 is amended to include the limitations of claims 2, 4 and 6. As claims 2-6 no longer limit claim 1, they are cancelled.

Claims 7-17 are amended to change dependencies to claim 1.

Claim 21 is amended to use more conventional language for the Markush group.

Claim 33 is amended to change "obtainable" to "obtained".

No new matter is added.

### **Election/Restriction**

Applicants affirm the election to a process of Group A, claims 1-32. On March 5, 2009 applicants further elected the photoinitiator species found in example 1 of the specification and alcohol as the functional group. As this election of species reads upon claims 1-4, 18-21 and 25-32, examiner further withdrew claims 5-17, 22-24 and 33-34.

The examiner believes the claims to be directed to more than one species of generic invention and they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The applicants traverse the withdrawal of claims 5-17 and 22-24 from the process Group A.

Claims 1-32 are linked by the process of forming a functional layer on a substrate and the recited steps thereto.

Further claims 5-17 and 22-24 ultimately depend for claims which will be examiner (1-4, 18-21 and 25-32).

Upon allowance, applicants will request reconsideration and rejoin of claims 5-17 and 22-24. It does not make sense to require that the applicants file a divisional application to cover claims which depend directly from granted claims and contain all their limitations. This is a waste of resources by the Office and the Assignee.

### **35 USC §103(a)**

Claims 1-4, 18-21 and 25-31 are rejected under 35 USC 103(a) as being unpatentable over Bauer, US 6548121.

Examiner believes Bauer to contain all the limitations of cited in claim 1 except that Bauer does not teach that the mixture of ethylenically unsaturated compound with photoinitiator compound(s) of step c1 is in the form of a melt, solution suspension or emulsion. However, Bauer does teach that the mixture can be applied by spraying (col. 15, lines 20-27) and teaches that for spraying it is suitable for photoinitiators to be in the form of a melt or solution (col. 22, lines 40-43).

Applicants respectfully disagree. Bauer is directed to a method of producing strongly adherent coatings on organic or inorganic substrates.

The present method is directed to the formation of a functional layer on a substrate. Note the step b) 1) or 2) which requires incorporation in the activatable initiator and/or the ethylenically unsaturated compound at least one function-controlling group which results in the treated substrat's acquiring desired surface properties.

The applicants have further defined the functional controlling groups for the hydrophilic or hydrophobic groups. Bauer makes no teaching or suggestion to form a functional layer using the listed chemicals to provide said functional layer.

### **Double Patenting**

12. Claims 1-3, 21, 25-27, 29-32 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of US 7455891.

Applicants have incorporated the limitations of claims 4 and 6 into claim 1. Thus the above rejection is overcome.

13. Claims 4, 18-20 and 28 are rejected on the ground of nonstatutory obviousness type double patenting as being unpatentable over claims 1-17 of US 7455891 as applied in the double patenting rejection above and further in view of WO-00/24527 (US 6548121).

14. Claims 1-3, 25-27, 29-32 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10556609.

Applicants have incorporated the limitations of claims 4 and 6 into claim 1. Thus the above rejection is overcome.

15. Claims 4, 18-21 and 28 are provisionally rejected on the ground of nonsatutory obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10556609 as applied in the double patenting rejection above and further in view of WO-00/24527 (US 6548121).

16. Claims 1-3, 21, 25-27 and 29-32 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. Serial No. 10/566,741.

Applicants have incorporated the limitations of claims 4 and 6 into claim 1. Thus the above rejection is overcome.

17. Claims 4, 18-20 and 28 are provisionally rejected on the ground of nonsatutory obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10566741 as applied in the double patenting rejection above and further in view of WO-00/24527 (US 6548121).

18. Claims 1-3, 21, 25-27 and 29-32 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. Serial No. 10/566,742.

Applicants have incorporated the limitations of claims 4 and 6 into claim 1. Thus the above rejection is overcome.

19. Claims 4, 18-20 and 28 are provisionally rejected on the ground of nonsatutory obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10566743 as applied in the double patenting rejection above and further in view of WO-00/24527 (US 6548121).

20. Claims 1-3, 18-21, 25-32 are provisionally rejected on the ground of nonstautory obviousness-type double patenting as being unpatentable over claims 1-22 of copending Application No. Serial No. 10/538,890.

Applicants have incorporated the limitations of claims 4 and 6 into claim 1. Thus the above rejection is overcome.

21. Claim 4 is provisionally rejected on the ground of nonsatutory obviousness-type double patenting as being unpatentable over claims 1-22 of copending Application No. 10538890 as applied in the double patenting rejection above and further in view of WO-00/24527 (US 6548121).

22. Claims 1-3, 18-21 and 25-32 are provisionally rejected on the ground of nonstautory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. Serial No. 10/530,614.

Applicants have incorporated the limitations of claims 4 and 6 into claim 1. Thus the above rejection is overcome.

23. Claim 4 is provisionally rejected on the ground of nonsatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10530614 as applied in the double patenting rejection above and further in view of WO-00/24527 (US 6548121).

Applicants respectfully request putting off resolution of the double patenting rejections under 13, 15, 17, 19, 21 and 23 once the other rejections are resolved. At that time the applicants will better know the state of the claims and can better decide the appropriateness of the provisional double patenting rejections.

Reconsideration and withdrawal of the rejection of claims 1-4, 18-21 and 26-32 is respectfully solicited in light of the remarks and amendments *supra*.

Since there are no other grounds of objection or rejection, passage of this application to issue with claims 1-4, 18-21 and 26-32 is earnestly solicited.

Applicants submit that the present application is in condition for allowance. In the event that minor amendments will further prosecution, Applicants request that the examiner contact the undersigned representative.

Respectfully submitted,



Ciba Corporation  
540 White Plains Road  
Tarrytown, New York 10591  
(914) 785-2768  
Fax (914) 785-7102  
SAL22989R1.doc

Sheila A. Loggins  
Agent for Applicants  
Reg. No. 56,221

Enclosure: Petition for one month extension of time.